IN THE HIGH COURT OF PUNJAB AND HARYRNA AT CHANDIGARH

R.S.A. No.3237 of 2003
Date of Decision:- 24.08.2006

Bhupinder Singh & ors. ....Appellants.

through
Mr.B.S.Bhalla, Advocate

vs.

Bachittar Singh & ors. ....Respondents

through
None.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT

***

SURYA KANT, J.

This regular second appeal has been filed by the legal representatives of the plaintiff-Gurdial Singh, whose suit for possession by way of redemption of the subject property has been dismissed by both the Courts.

As held by the learned trial Court in para 7 of its impugned judgment dated 19.5.1993 and affirmed by the learned First Appellate Court in para 16 of its judgment and decree dated 5.4.2003, the subject property was sold in favour of defendant-respondent Nos.1,3 and 4 by way of registered sale deed by defendant-respondent No.5, who was its undisputed owner. The present suit was filed on the premise that the said defendant-respondent No.5 had actually mortgaged the subject property for a sum of Rs.8500/- vide mortgage deed dated 17.2.1976.

As concurrently held by the Courts below and which could not be seriously disputed by learned counsel for the appellant, the registered sale deed vide which defendant-respondent No.5 sold the subject

land to defendant-respondent Nos.1,3 and 4, was subject-matter of challenge in a previous civil suit between the parties in which the predecessor-in-interest of the present appellants, namely, the deceased-plaintiff was also a party. The said sale deed was upheld upto this Court vide judgment Ex.D1.

The Courts below have further held that the appellants or their predecessor-in-interest have never been in possession of the suit land, therefore, question of redemption of the mortgage could not arise and as such the suit is also not legally maintainable. No exception can be taken to the afore-said view taken by both the Courts.

For the reasons noticed above and in the absence of any substantial question of law which may arise for consideration of this Court, I do not find any merit in this appeal which is accordingly dismissed.

August 24, 2006 **(SURYA KANT)**
poonam **JUDGE**